

American Civic Association

SERIES II, NO. 2

JUNE, 1908

THE BILLBOARD NUISANCE

DEPARTMENT OF NUISANCES

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American Civic Association

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EDITED BY

CLINTON ROGERS WOODRUFF

Department of Nuisances

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THE BILLBOARD NUISANCE

INTRODUCTION

This pamphlet is intended to afford a summary of the arguments advanced against objectionable billboards, and to furnish suggestions as to the most available ways and means for the curtailment and elimination of the evil.

Evidence is accumulating in steadily increasing volume to the effect that Americans do not view with approval or appreciation the growing use of billboards for advertising purposes, and especially where they are obnoxious in themselves or interfere with natural scenery, or with an effective view or beautiful vista.

The Association is indebted to the editors and publishers of "The Outlook" and "The Craftsman" for permission to use so much of two articles appearing in their columns as presented a strong summing-up of the case against billboards. The more important facts upon which the case rests are given in further detail for the guidance of those who, in their respective communities, are active in the campaign against ugliness, especially in so far as that ugliness is due to the well-nigh universal use of billboards.

These facts show that billboards are detrimental to the advancing taste in municipal art and offensive to the growing artistic sense of American communities; that they are dangerous to life and limb, and liable to be detrimental to the health of the people. The counts in the indictment against billboards are multiplying so rapidly and the various efforts to counteract their baleful influence are increasing at such a rapid pace that any publication dealing with the subject is apt to be out of date so soon as published. It is our intention, however, to furnish herein a brief but effective summary of suggestive experiences, sufficiently full to enable local workers to apply them with effect to their own special circumstances.

The San José decision, as the pioneer instance of a judicial declaration that the billboard is a nuisance, is discussed and quoted at length, because we feel that it will prove especially effective in molding public opinion along the right lines. Ju-

dicial opinions not only declare the law, but reflect public opinion on the subject, and all the decisions that have recently been delivered on this question show conclusively the influence of the gathering cloud of public protest against objectionable signs and billboards.

The Association's three model bills are published in full for the guidance of those who are seeking to control the situation through legislation, and references given to existing statutes and ordinances.

The successful experiences of foreign countries are related with sufficient detail to afford helpful suggestions to workers in this country. This information, gathered at the instance of the American Civic Association, has been given very general publicity, but its reproduction in this connection was deemed advisable as it affords valuable ideas to those who wish to deal comprehensively with the subject in all its phases.

The pamphlet is issued with the hope that it will prove helpful in arousing and guiding public opinion in this question, and of correlating for an advance movement all along the line against one of the most serious menaces to the successful achievement of "The City Beautiful," all the forces now working in that direction and behalf.

THE INDICTMENT AGAINST THE BILLBOARD

The billboard evil is dangerous and widespread. It is pleading vested rights in its defence; but the growing outcry against it, the fact that men and women are declaiming against it, that organizations are taking up the crusade, are all encouraging signs of the times. The American may be indifferent, but he is not dead to beauty or duty; and both of these are calling to him to take up arms against the billboard. It is a little too early to indicate how far the campaign has progressed. The fighting has just begun, but the important and auspicious fact is that the fight *has* begun.

The billboard is being attacked on every side by the public official, by the sanitarian, by the business man, by the legislator, by the lover of civic beauty; but one must not think that the objectionable billboard and the offending bill-poster will gracefully or quietly retire from the field. They have their national organization, which is called by some a trust; they

have an active lobby in every state where legislation adverse to their private interests is introduced; they have an active, and, at times, a virulent publicity bureau. They are leaving no stone unturned to protect and advance their interests. The fight is a bitter one, and to the finish.

The war on billboards should have, and I believe in time will have, the sympathetic approval and support of every loyal citizen, whether or not he is a lover of civic beauty. This warfare is as much in the interest of material business prosperity as in the interest of the disfigured landscape. The great public is beginning to appreciate that whatever makes for the beauty of the streets of a great city will also make for a greater power in all branches of business activity.

BILLBOARDS AND ART

"Oh, you're from Pittsburg. I stopped in Pittsburg once, for a few hours when I had to wait for a train. It's such a funny, ugly city, all covered with the queerest wooden fences with great big advertisements printed on them. That's all I remember about Pittsburg,—its billboards and its hills." This, Carolyn Prescott tells us, is a sample of conversation "handed out" to Pittsburgers, the home of the great Carnegie Art Institute. This same authority declares that there are billboards everywhere: Billboards on top of tall buildings; billboards creeping over the high hills, winding their sinuous length like so many bizarre serpents; billboards stuck up in front of houses and gardens; billboards at the entrance of the parks; billboards even defacing the cemeteries. Everywhere one turns, there is the offering of some medicine that is warranted to cure everything from softening of the brain to housemaid's knee, or billboards demanding that we shall eat so and so, or drink so and so, or wear so and so, or go to such and such a place, if we would be happy. "We are so nauseated with the billboards that by the time we have reached our destination we have become so disgusted with what we have seen and read (for we can't help reading them—it's like the opium habit) that we wouldn't patronize those firms who advertise on billboards if we had to do without the articles."

How many Carnegie Art Institutes will it take to offset such a condition of affairs? Probably very many, for the one Pittsburg now has, with all its millions of endowment and beautiful collections, is not able to prevent the erection of one board, one hundred and forty feet long and twenty feet high,

directly opposite to the Institute itself. Nor has its presence prevented the desecration of its own beautiful pictures. La Fouché's picture of "The Bath," which received the first prize at the Interstate Art Exhibition at the Institute last spring, (1907) has been utilized as a subject "to inspire enthusiasm in modern plumbing." Surely these desecrations may with entire appropriateness be termed "disfiguring curses to our not-too-pretty city."

This evil blight attacks the country as well as the city. It leaves no part untouched. Nothing is sacred in its onward march. If the sky-line of the city is disfigured, so is that of the country-side. The billboards flaunt their loud color, their ugly vulgarity, their ofttime suggestive pictures, in the face of every passer-by on the city street and country lane, and by the railroad which skirts the farm or country-seat.

"The bill-poster," to quote an indignant Cincinnati observer, who has been aroused by the vigorous campaign inaugurated there by the wide-awake Business Men's Club of that city, "has disfigured and concealed the natural and the artificial beauty of the landscape—and there is no other landscape comparable with that which the billboard is striving to hide from Cincinnati with large degree of success. He has affixed his disfigurements on trees, fences, gateways and walls so as to affect the amenities of public parks, promenades, streets and avenues. He has sought the neighborhood of churches and of schoolhouses. He has scores of miles of disfigurements and blotches in Cincinnati, and he goes scot-free of taxation on his exceedingly remunerative investment in billboards."

OFFENSIVE TO THE ARTISTIC TASTE

Certainly the most widely urged objection to the billboard is the one based on esthetic grounds, as in the Pittsburg instance just cited. Jackson Hatch, the City Attorney of San José, Cal., in his suit against an offending sign in that city, declared in his brief that "*A glaring billboard, advertising, for instance, 'Budweiser Beer,' set opposite a man's house, in a vacant lot bordering upon a public highway in a country town devoted to homes, is just as offensive to the immediate residents as would be the maintenance of a pig-sty giving forth offensive odors, or the maintenance of a stone-breaking machine or the chime of hoarse bells. In principle, there is no difference between them; it is only a difference in degree. Each is an interference with the peaceable and quiet enjoyment of one's property.*"

The question at issue was not the power to impose a license, or in any manner to regulate the erection of billboards, but concerned the power of absolute prohibition, on the ground that billboards were offensive to the sight and to good taste.

The decision of Judge Welch was an oral one, but was conclusive on the points raised. Without qualification, it was in favor of the municipality, and held that, under Section 3,479 of the Civil Code, anything that was offensive to the senses could be declared a nuisance and prohibited, and that an offense to the sense of sight might be included with nuisances offensive to other senses. Moreover, the degree of offensiveness might not be equal to all individuals, but, being within the statutory definition of a nuisance, the municipal authorities had the right to declare the offensive object to be a nuisance, and the courts would not interfere with the discretionary power of the board of trustees in that particular California municipality.*

BILLBOARDS AND THE COUNTRY SIDE

There was a time when a ride through the country on the railroad afforded an uninterrupted panorama of beauty, an ever-varying scene which was a delight to the eye and a joy to the soul; there was mental and spiritual refreshment. Can the same be said of the ride from Philadelphia to New York, on the Pennsylvania railroad, or from New York to Boston, on the Shore Line? There are spots which remind us of what was once the rule, but, for the most part, our eyes meet offensive signs—offensive not only in what they give us in the way of unsought advice about personal matters, but offensive because they obscure the landscape or distract our attention from its beauties. To adopt as our own the words of the Earl of Balcarras, one of the leading British opponents of the evil: "What we claim is that the landscape does not belong to the man who chooses to pay a few shillings for it per annum, but is an asset of the people at large. The same principle applies to open spaces and places. The sky sign is a most objectionable form of advertising. There is the flash sky sign which dominates the whole of the Embankment. A well-known hotel has a big illuminated sign which flashes down the Mall into the very windows of the sovereign in his palace. Such advertisements are merely seizing the opportunities of the taxpayers' expenditure on space and utilizing it."

*For a full statement of the San José case see page 13

BILLBOARDS AND CITY ARCHITECTURE

Here is how Richard Watson Gilder, editor of "The Century," put the case in a letter read at the Providence meeting of the American Civic Association:

"As I went yesterday to my office in this city, I passed one of the most beautiful of modern buildings, a savings bank built recently of white marble in the classical style. It is a pleasure to look upon this noble and restful structure. And it is a pain, and an anger to have to take in, at the same glance, an enormous liquor sign, high in the air beyond and above it. What is the use of building exquisite structures, if any tasteless and remorseless trader can come along with his glaring, dominating appeals for your money, and utterly spoil the effect. It is as if at a symphony concert, venders of soap should be allowed to go up and down the aisles and bawl their wares.

"A similar experience accompanied my railroad trip on the same day over one of the lines between New York and Philadelphia—where now and again a loud array of advertising signs spoiled the effect of the rich, otherwise harmonious landscape.

"One of these days the people of a commercial community will appreciate the fact that, to put it commercially, beauty is a valuable asset, as well as 'a joy forever,' and then the advertisement fiend will not be allowed to go up and down the land destroying views, which means destroying values—values that belong to the entire population, and that no individual has the right to ruin."

The conviction is growing in this country that scenic and urban beauty are public assets, and must not be impaired to enable some one to sell more ointment or more whiskey or more cigars, and I believe business men are beginning to realize that a billboard is an undesirable medium of publicity.

DESECRATION OF NATURE

The charge that the flaming billboard is indicative of the supremacy of commercialism in America, and that it is, at the same time, the cause of the backwardness of our art, is revived, with a dash of humor, in an editorial in the "Harper's Weekly." It is complained that the annoyance of heat and cinders and hawking newsboys encountered in railway travel might, in large measure, be counteracted by the sight of the meadows,

woods and hamlets through which the train passes. But all this is taken away, especially near large cities, by "proclamations of the virtues of pills—proclamations hideous enough to cause the disorders they claim to cure." And the writer adds, "And we wonder why art is at low ebb in our land!"

According to the St. Paul (Minnesota) "Pioneer," there is no need to take a railroad journey as suggested by the eastern writer. A trip to Minneapolis on the interurban line will reveal, in kind the same, and in a degree more intense, a collection of billboards which ought to be recognized as a disgrace to a community of people as enlightened as are those of the Twin Cities. There is scarcely a block from the first vacant lot at this end of the line to the last in Minneapolis on which one to a dozen billboards of various sizes do not flame forth their multi-colored commands to buy. Among the trees and small groves near the river, the same desecration of nature has been carried on. *The whole line is a hideous nightmare which can be avoided only by closing the eyes.* The green which nature provided as a rest for the eye is covered to so great an extent with crude reds and yellows that the strain is enough to render the short journey wearisome.

From the standpoint of general happiness, is this desecration of God's out-of-doors sufficiently compensated by the mere money which may be gained? Is it not the appreciation of the true and the beautiful, the quiet and peaceful, which brings a larger measure of joy than can be obtained from the money derived from so plastering the fields and groves with signs that the nation has almost forgotten what natural beauty really is?

DANGEROUS TO PROPERTY

The counts in the indictment against the billboard evil are fortunately being effectively formulated and rapidly multiplied throughout the country. Each interest affected is pressing its charges with more and more vigor and relentlessness.

The public official, in the person of the fire and police chiefs, is objecting on the ground that the billboard is a menace to the life, health and property of the community. Fire Chief Croker, of New York, maintains that they are a delay and a very great handicap to firemen. He says that time and again his men have to cut their way through the boards to get to a fire. But very slight reflection is needed to see how dangerous they are apt to be in large cities and in narrow streets.

The fire chief of Janesville, Wis., is officially on record

as opposed to billboards, and, in Buffalo, the city council has placed the abatement of those boards defined to be nuisances in charge of the fire bureau.

Moreover, billboards, it is contended by some officials, help to communicate fire, and should be forbidden on the same ground that frame structures are forbidden in built-up sections of the average city. To allow billboards within the limits wherein frame structures are forbidden is an obvious inconsistency, which ought forthwith to be done away with without further debate.

DANGEROUS TO HEALTH

The police in some cities object because the boards afford a hiding place for fugitives and criminals, and sanitary officers and building inspectors object because the grounds behind billboards usually become unpleasant nuisances. The Memphis Council recently enacted some much-needed protective and sanitary legislation including certain sections bearing on the billboard problem, the constitutionality of which was assailed, but eventually sustained by the Supreme Court. "In the future, all billboards must be built three feet from the ground. This is primarily necessary for the purpose of sanitation. Many people have been using the space in the rear of extensive billboards as a common dumping-ground. Filth of all character has been deposited in such places because they were screened from the streets. Various nuisances have been committed, and the health of the city has been endangered. This was one of the reasons that led the building inspector to begin his crusade in behalf of a healthier and safer arrangement for the construction of such boards. In this he had the coöperation of the health department and some of the city officials in general. In addition to this, there are certain other regulations to be complied with, looking to the public safety. A number of boards have recently toppled over, and in two instances death was narrowly averted. Hereafter all billboards, in addition to being built three feet from the ground, must be built upon posts 6 x 6 inches where the sign is to be ten feet in height."

This legislation does not go into the question of the moral or esthetic offensiveness of billboards, but it is significant in that it establishes a precedent that they are nuisances, because a danger, if unregulated, to the public health.

BILLBOARDS CONCEAL FILTH

Moreover, it furnishes a reply to one of the stock arguments of bill-posters, that they hide unpleasant spots and sights. A correspondent of a Pittsburg paper thus puts this side of the case: "Billboards have been called an eyesore; but I leave it to any observant person if a picture, no matter how inartistic or crude, is worse than the usual litter of tin cans, garbage, stones, etc., generally to be found behind these same boards. Clean up the vacant lots so that the people will not want to hide them with hideous fences, and then talk about the harm done to one's artistic principles by billboards."

Will those responsible for such a condition of affairs be the more likely to clean up if the litter is exposed, or if it is allowed to remain concealed behind a billboard? Billboards may cover up a lot of sins, but the wiser policy is to cure them, rather than to multiply the billboards!

There are those who now claim that they are further detrimental to health, because they shut out the light from offices, factories and, in some places, flats and dwellings. If billboards multiply in number and size as rapidly in the next year or two as they have in the past two or three, they will shut out a very considerable amount of light and air.

What with the skyscraper and the gigantic billboard in our cities, the outlook is not encouraging, unless a halt is called and that very soon. Perhaps the fact that the value of real estate is being impaired by the presence of these boards will serve to bring about a reform. The Massachusetts Civic League, in its campaign in that State, formally charged that the value of real estate had been decreased in certain instances by reason of objectionable billboards. If once the property-holders realize that this is likely to be a general result, they will bestir themselves for their own benefit.

THE UNWHOLESOME TENDENCY OF BILLBOARDS

Moral agencies indict billboards because they so frequently are used to advertise lurid and sensational plays, and alcoholic beverages. The Woman's Health Protective Association of Brooklyn charges that the former incite to crime, and that the latter are active accomplices in the transgression, and have asked the Court to order their expunging, on the ground that the community must protect the morals of the boys and girls, its future citizens.

While the national organization of the billposters has adopted resolutions strongly reprobating the posting of lurid dramatic pictures of the "White Slave" type, the fraternity has evidently accepted the resolutions in a purely Pickwickian spirit, for the offenses against decency and true morality continue. The billboards also constantly suggest to the boys the use of firearms in violent scenes, and it is a common sight to see children standing open-mouthed before these baleful exhibitions.

In Newark, legislation has been invoked to prevent the posting by some of the members of the national organization of suggestive pictures of partially draped women.

BUSINESS MEN QUIT BILLBOARDS

Here is the letter the Municipal Art Committee of the Business Men's Club has been sending to every billboard advertiser in Cincinnati: "We have noted signs bearing your advertisements in our city. The card we enclose is one signed by numerous large advertisers who have displayed enough civic pride to agree to abandon this kind of advertising within our city. Trusting that you will lend your assistance by signing and returning the inclosed card, we are, yours truly, the Committee."

With the letter is sent what is known as a roll-of-honor card, which is in the nature of a pledge to refrain from billboard advertising. The roll of honor seems to be popular, for nearly one hundred firms have declared their intention to abandon the use of the billboard, and, in February, 1908, a careful estimate showed that more than 25 per cent of Cincinnati's "sign-scape" was vacant of fresh advertising.

The need for an active and vigorous onslaught on the evil at Niagara is obvious to those who have recently visited the Falls.* There, in the presence of one of Nature's masterpieces, an inspiration to the lowliest minds as to the most highly trained, we find the insulting signboard. There it is not only a nuisance, but an outrage upon the public, and an insult to the Creator.

If there is no other way to reach such offenders, let every one who sees these boards or hears about them register a solemn vow never to patronize the advertiser who uses such means to give publicity to his wares.

"I never patronize a firm that advertises on billboards or

*See account of Niagara billboard test, page 31

on theater drop-curtains," declares one Tacoma city official. "I see the ads. One can't blind himself to them, but he can refuse to patronize the firms. As a matter of fact, I put down in my mental note-book every name I see on such an ad., and I refuse to buy a thing of that firm. I consider it an outrage to mar the scenery of our city with billboards, and I consider it an insult to theater patrons to compel them to look upon a great poster of business ads. after they have paid good money to get into the house. You may think I am humoring my prejudices too much, but I have stayed away from many a good show in the best theaters in Tacoma for no other reason than that I would not have those advertisements flung in my face. No one was more pleased than I to learn that the Tacoma theater people had at last discarded their advertisement curtain."

May the tribe of such determined men increase, and the billboard offense will decrease in proportion,—nay, faster, because the modern advertiser seeks to please, not to alienate. When he realizes that his course is unpopular, he will be the first to change his tactics, and when people fail to follow the brazen suggestions of the billboards, the latter will disappear.

THE CELEBRATED SAN JOSÉ CASE

The ordinance of the town of East San José, which was the subject of controversy in the now justly famous San José case, prohibited:

The erection or maintenance of any billboard, signboard or other structure, for the purpose of painting or other delineating or picturing or displaying thereon, or thereby, any advertisement of any goods, wares or merchandise whatsoever.

The prohibition does not apply to any dwelling-house or barn upon which there shall be painted, or otherwise delineated or pictured or displayed, any advertisement mentioned above; nor to any person having a fixed place of business in East San José who erects or maintains any advertising sign on the premises where his business is carried on, and who has paid the license taxes exacted from him by the town for carrying on such business, and has secured from the marshal a written permit therefor, if the advertisement relates only to goods for sale by him at his said place of business.

The second section of the ordinance provides that, in case of a violation of the ordinance, the town marshal shall serve

notice on the person maintaining the prohibited billboard, directing him to remove the same within five days, and that, if he fails to do so, then the marshal shall proceed to remove the same.

THE DETAILS OF THE CASE

In August, 1906, the town marshal of East San José served upon Varney & Green, billposters, who were the plaintiffs in the action, a written notice requiring them to remove within five days all billboards maintained by them in the town and used for advertising purposes; otherwise he would proceed to remove them as directed by ordinance.

The firm refused to comply with the ordinance, and commenced a suit in equity to obtain a perpetual injunction to restrain the marshal from enforcing the ordinance. A temporary writ was issued, and thereafter the case was tried on its merits. Among other things, it was proved that Varney & Green owned and maintained billboards along the principal thoroughfare through the town. The testimony described in detail these several billboards, of which the following were typical cases: One was about ten feet high and fifty feet long, and contained a good deal of paper in various stages of tearing and some old advertisements of Forepaugh's circus, and an advertisement of pure drugs pasted over an old sign, and that this billboard was highly colored, having colors red, yellow, black, green, blue and white; also, that it was covered over with dried paste. Another billboard was about ten feet high and twenty feet long, and one of the advertisements was described as follows: It had in large capital letters "A. B. C.", these letters being white on a black background, and followed by the words, "King of all bottled beers," and that immediately to the left were the words, "Bottled exclusively at the Brewery in St. Louis," and that to the right was a very excellent picture of a beer bottle, having upon it the letters "A. B. C." and the word "Bohemian," and on the right of it the words, "American Brewing Company, St. Louis, Mo.," and that in the middle of this part of the billboard was a picture of a bulldog of ferocious aspect and large size in an attitude of contemplation, apparently viewing the bottle of beer, and that immediately between the dog's outspread front feet appeared the words, "Watching a good thing," and that on both sides and to the rear of the dog appeared a prairie scene in green, black and yellow, relieved at intervals with yellow flowers, and at extreme bottom of the sign were the names of the distributors;

that this and another sign were paper and were pasted on, and underneath was considerable old and rotting paper, making the board look very rough. About a dozen signs were described, including advertisements of whisky, tobacco, cigarettes, and other articles of merchandise. It was shown that these signs were offensive to a great many of the citizens of East San José, because of their unsightly appearance and of the fact that they advertised beers and whiskies, and that they excited much unfavorable comment in the community, and were tending to depreciate the value of adjoining properties for residence purposes.

THE LAW OF THE CASE

The question opened for discussion was: Has a municipality of the sixth class in California the power, for any cause at all, to prohibit the erection and maintenance of billboards for general advertising purposes within its corporate limits?

This suggests a consideration of the police power, and of the various conditions that fall within its comprehensive grant of power to municipal corporations.

Mr. Hatch maintained that, under the constitution and laws of California, a municipal corporation has almost supreme power when it comes to deal with municipal affairs; and while this term, municipal affairs, is difficult to define, the cases in which the courts have attempted to define it are so numerous that it is, in California, an easy thing, comparatively speaking, to bring a case within the domain of municipal affairs.

Section 362 of the Municipal Government Act provides that any act which a municipal corporation shall declare to be a nuisance is a nuisance. And, in order to avail itself of this grant of power, it is not necessary for the corporation to declare in terms that the act is a nuisance. If the act which is punishable be in the nature of a nuisance, its status as such is sufficiently fixed.

In *Chicago vs. Gunning System*, 73 N. E. 1,038, the matter of regulating billboards for advertising purposes is held to be a valid exercise of police power.

THE USE OF THE POLICE POWER

It is there said that it (police power) is that inherent or plenary power which enables the state to prohibit all things hurtful to the comfort, safety and welfare of society, and may be termed the law of overruling necessity.

It is thus clear that, if the regulation of billboards for advertising purposes be within the sphere of the operation of the police power, any valid prohibition of the maintenance of billboards for advertising purposes would have to be sustained under the police power; as the same power which authorizes the regulation of a business would have to authorize the prohibition of such a business, if such business could be prohibited at all.

(Here followed a list of the general things assigned by the authorities as justifying the exercise of police power; also, instances when private property may be destroyed in the abatement of a nuisance.)

The general principle running through all the decisions is: That the question as to whether a given act is or is not a nuisance does not depend upon the existence of any actual damage from such act. In other words, an act may be justly determined a nuisance, or the subject of regulation or prohibition, under the police power, although it has never caused actual damage to a citizen or to the community. As was said in the Gunning case, above cited: "Nor is it necessary that all persons in the community or, in fact, any individual whatever, should be actually inconvenienced or injured; but it is sufficient if there is a tendency to the annoyance of the public by an infringement of its rights, which all are entitled to exercise if they see fit."

In Freund on Police Power, ¶ 182, it is said: "*It is conceded that the police power is adequate to restrain offensive noises and odors. The same protection to the eye, it is conceived, would not establish a new principle, but carry a recognized principle to further application.*"

WHAT IS A NUISANCE?

It is difficult to discover just the line of demarcation that separates the power to restrain an act offensive to the hearing and to the sense of smell from an act offensive to the eye.

There can be no doubt that a board of trustees may not declare an act or omission a nuisance which is not in fact a nuisance, and which cannot, under any circumstances, in fact be a nuisance. *But it does not follow that many acts which are not in themselves nuisances may not be declared nuisances under certain circumstances. There can be no question of the power of town authorities to declare such acts to be nuisances when circumstances justify.*

A billboard may be a nuisance or it may not, and a general

advertising business carried on in a community may be detrimental to the general welfare, and so become a nuisance. The proper function of the board of trustees is to ascertain and declare the act to be a nuisance.

Under the general laws of California, "Anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, is a nuisance."—Civil Code, Section 3,479.

As applied to the facts here, this section, when analyzed, must, of necessity, leave open to some power the determination as to what act is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property; and Section 862 of the Municipal Government Act commits to the board of trustees of a municipal corporation of the sixth class this power.

The evidence, as recited in this brief, clearly shows that the act prohibited was offensive to the senses, and interfered with the comfort and well-being of the community, and fully justified the judgment of the board of trustees that the maintenance of the billboards under the conditions there existing constituted a nuisance and should be prohibited.

In Attorney General vs. Williams, 55 N. B. 77, the court held that the law-making power might determine that the beauty and attractiveness of a public park in the capital of the state was a matter of such public interest as to call for the expenditure of public money and justify the taking of private property.

In our own state, in re Wilshire, 103 Fed. Rep. 620, Judge Ross said: "The views in and about a city, if beautiful and unobstructed, constitute one of its chief attractions, and in that way add to the comfort and welfare of its people. Billboards for advertising purposes, erected to any great height, would undoubtedly subject to all of these, as well as other objections, and such structures are, therefore, plainly within the regulating power of the governing body of the city."

A business, otherwise lawful, may become a nuisance by extraneous circumstances, such as being located in an inappropriate place, or conducted in an improper manner. And some lawful businesses are prima facie nuisances in certain localities.—21 Am. and Eng. Ency. of Law, 685-690.

It would be a singular result of our law if relief could not be had against the maintenance, for purely advertising purposes, of an uncouth billboard erected opposite my house, having

painted upon it grotesque advertisements of wines, beers and whiskies, and constantly, hourly and daily, a detriment to my property, and a serious injury to the feelings of myself and my family.

BILLBOARDS AND THE LAW

Where the courts are not prepared, as was Judge Welch, to declare billboards to be nuisances under existing laws, additional legislation may be necessary. Such appears to be the case in Massachusetts, and Representative Frank G. Hodgskins, of Springfield, has introduced a measure to give communities the right to declare billboards, under certain circumstances, to be nuisances. His proposed bill is reproduced in this connection for the guidance of those who wish to proceed along these lines.

A PROPOSED MASSACHUSETTS LAW

"An act relative to the erection or maintenance of billboards, signs or signboards in cities and towns

"Be it enacted, etc., That a billboard, sign, or signboard that is erected or maintained within the residential limits of a city or town and within one hundred yards of any dwelling owned or occupied by any person, that is used for advertising a business, or the sale of goods, wares or merchandise or the treatment of disease of human being or animal, when said business, sale or treatment is not transacted, made or practised upon, or does not relate to, the premises whereon said advertising appears or said billboard, sign or signboard is situated, shall be deemed a private nuisance. Any such owner or occupant who is injured either in the comfort or enjoyment of his estate thereby may have an action of tort for damages."

BILLBOARD LAW IN PENNSYLVANIA

Pennsylvania, through its Act of 1903, has already taken a substantial step forward in the regulation of the evil. This measure, which was prepared by the then President of the American Park and Outdoor Art Association (one of the two constituent bodies forming the American Civic Association), forbids the posting of billboards on any public building or structure of the state, county, city, or township and borough,

and likewise forbids their posting on private property without the consent of the owner or the tenant lawfully in possession. The text of this Act is given in full because it represents a distinctly helpful step in advance. It is now the law of Pennsylvania, though not as yet properly enforced.

THE EXISTING PENNSYLVANIA LAW

"SECTION 1. Be it enacted, etc., That no person shall paste, paint, brand or stamp, or in any manner whatsoever place upon or attach to any building, fence, bridge, gate, outbuilding or other object, upon the grounds of any charitable, educational or penal institutions of the State of Pennsylvania, or upon any property belonging to the State of Pennsylvania or to any county, township, borough or city therein, any written, printed, painted or other advertisement, bill, notice, sign or poster.

"*Provided*, That nothing herein shall be so constructed as to prevent the posting of any notice required by law or order of court to be posted, nor to prevent the posting or placing of any notice particularly concerning or pertaining to the grounds or premises upon which the same is so posted or placed.

"SEC. 2. That no person shall paste, paint, brand, stamp or in any manner whatsoever place upon or attach to any building, fence, bridge, gate, outbuildings or property of another, whether within or without the limits of a highway, any written, printed, painted, or other advertisement, bill, notice sign, card or poster, without first having obtained the written consent of the owner, or tenant lawfully in possession of occupancy thereof:

"*Provided*, That nothing herein shall be so construed as to prevent the posting of any notice required by law or order of court to be posted, nor to prevent the posting or placing of any notice particularly concerning or pertaining to the grounds or premises upon which the same is so posted or placed.

"SEC. 3. Every person violating the provisions of this Act shall be liable to a penalty of not less than five dollars nor more than twenty dollars, to be recovered before any magistrate or justice of the peace, as fines and penalties are by law recoverable; and such written, printed, painted or other advertisement, bill, notice, sign, card or poster is hereby declared to be a public nuisance, and may be removed and abated as such."

Pennsylvanians should observe that this existing law absolutely prohibits signs on any state, county, township, borough or city property. The signs on county bridges, for instance, are all illegal. Unless specific *written* permission can be shown,

all signs on fences, barns, telegraph poles and the like, are illegal and are public nuisances, under this law. Thousands of "sniping" signs, pasted or tacked up without permission, may, undoubtedly, be removed, under this law, where its enforcement is insisted upon.

THE LOS ANGELES (CALIFORNIA) CASES

The billposters have been making merry over Judge Bordwell's decision sustaining certain objections to the Los Angeles ordinances. They maintain that it was a great victory, overlooking the fact that the Judge declared that "*beyond question, the regulation of the erection and maintenance of billboards within the city limits comes within the proper exercise of the police power.*"

The real question which the court had to determine was whether or not the ordinance under consideration was a reasonable or unreasonable exercise of the police power, and it held that it was unreasonable.

There are other portions of the opinion that are far from giving aid and comfort to the billposters. Here are two of them as illustrations:

There can be no doubt whatever but that the local government has the right, in the exercise of the police power, to prevent the placing upon billboards of any picture, caricature or printing which shocks the moral sense, or tends to moral degradation.

It cannot be denied that billboards themselves are unattractive, and that, in fact, they do materially mar the general beauty of the city. And it is likewise true that many of the advertising designs, instead of being artistic, are hideous in their conception and worse in their execution—positively shocking to the educated, esthetic sense, shaming both the advertiser and the designer.

The Judge very plainly intimated that he would sustain an ordinance free from unreasonable requirements, and the City Attorney of Los Angeles is at work on a new one which will abate the evils as effectively as the old, without running counter to fundamental constitutional requirements.

THE FIFTH AVENUE (NEW YORK) CASE

The substitution for some of the old horse-drawn stages running on New York's finest thoroughfare, Fifth Avenue, of a line of new motor stages, was hailed with joy, until the stages

were completely covered with luridly painted tobacco advertisements. Strong objection was promptly made to the signs.

New York has an ordinance which prohibits advertising wagons on the streets of the Borough of Manhattan. Under this ordinance and the authority granted to the borough to control such matters, the city sought to prevent the stage company from carrying advertising on its busses. The Fifth Avenue Coach Company, operating them, sought to enjoin municipal interference, but, according to the judge, failed to establish "that clear legal right, the existence of which is a condition indispensable to equitable relief." In the course of his decision, sustaining the city, and overruling the contention of the Coach Company, Judge Leventritt declared:

"I am referred to no decision supporting, and *research has failed to disclose any authority for the plaintiff's contention that exterior advertising on public conveyances is incidental to the exercise of the powers of common carriers.* The adjudicated cases have gone no further than to recognize and sanction the right of certain railroad corporations to display advertising signs in their stations or to establish an enterprise which, while not directly authorized by the charter, promoted the comfort and convenience of passengers, thereby contributing to the legitimate corporate business, merely because the exercise of these added privileges had become established by custom. Thus, in the *City of New York vs. Interborough R. T. Co.* (53 Misc., 126), the right of the Subway Company to rent space for advertising signs and weighing machines in the subway stations was challenged. A preliminary injunction was granted (47 Misc., 221), which, after trial, was made permanent upon the ground that *the right to maintain news-stands, vending and weighing machines, and advertising signs in stations is, as an incident to the operation of railways, based upon a practically universal custom.*"

In the same opinion the judge declared:

THE PROTECTION OF FIFTH AVENUE

"Civic pride has prompted the protection of the thoroughfare from all unnecessary commercial use and traffic. And, although the mercantile invasion, with its consequent disfigurement, has tended to mar the picture, Fifth avenue has, nevertheless, maintained a general appearance of architectural superiority. It is amid such scenes as this that the plaintiff's advertising panorama of brilliant signs moves. It is along this

avenue of churches that on Sunday these glaring billboards are driven. It is this scheme of beauty which is sacrificed to the demands of modern commercialism. It is along this entrance to parks, and along the parks themselves preserved to attract lovers of nature and of the beautiful, that these unnatural and inartistic moving picture signs are displayed. But, out of place, disagreeable and offensive as they are, both to civic pride and esthetic taste, and, although the tendency of equity jurisprudence is to extend the court's jurisdiction to include this situation, the ultimate fact remains that no authority now exists (i. e., in New York,) which will justify the legal conclusion that the plaintiff's signs constitute a nuisance."

He also quoted and applied it to the case in hand the opinion of Justice Scott, in *Tompkins vs. Pallas* (47 Misc., 309), which was an action brought to enjoin the use of a fence inclosing a portion of one of the city parks for billboard advertising purposes:

BUSINESS ADVERTISEMENTS IN PARKS

"A public park has been defined by the Court of Appeals as 'a piece of ground inclosed for the purposes of pleasure, exercise, amusement, or ornament' (*Perrin vs. N. Y., etc. R. Co.*, 36 N. Y., 120), and commissioners charged with the care of such parks have often been held justified in granting licenses for the maintenance within parks of such conveniences as would enhance the opportunities of the public to use and enjoy the parks as places of resort, amusement, recreation and exercise. In every case, however, in which the exercise of this power has been sustained, it has been because the use authorized has, in some way, contributed to the use and enjoyment of parks by the public. The defendant, *Pallas*, gives in his affidavit opposing this motion, a list of some of the licenses heretofore granted with respect to the city's parks, including restaurants, refreshment stands, boats, stages, boathouses and flower-stands. This very list of itself shows that heretofore the issue of licenses has been limited to objects which would tend to afford additional facilities for the beneficial use and enjoyment of the parks by the public, and have come to be generally recognized as appropriate aids to the full enjoyment of public pleasure grounds. No such claim can be made for the advertisements of which the plaintiff complains. *It is too obvious to require demonstration that business advertisements painted upon a board fence contribute nothing to the beneficial use of the park by the public.*"

BILLBOARDS NEAR PARKS

In this connection, St. Paul has taken a forward step, albeit a somewhat short one. By a vote of six to one, the local assembly passed, at the request of the Park Board, an ordinance prohibiting the erection of any billboards or signboards within one hundred and fifty feet of any park or parkway. One member of the assembly brought up the time-honored argument that, in many places, a billboard served to obscure unsightly places. No doubt billboards do cover a multitude of sins of omission and commission, but it can scarcely be considered to be sound morals to advocate increasing the supply of sin-covering rather than the elimination of the sins.

Fortunately, this assemblyman was in a lonely minority of one, and affirmative action was taken at once; as it was pointed out that the ordinance did not interfere with any boards already erected, and that any delay in its passage would have the effect of causing the bill-posters to put up all the boards they could before the measure should become a law.

This St. Paul effort, therefore, has two important lessons: It points the way to an effective measure of prevention, and it teaches the wisdom of taking time by the forelock. Too often legislative action comes after the evil has been done, and then the offenders are given a chance to plead vested rights.

BILLBOARD TAXATION AND REGULATION

Taxation is coming to be regarded as a favorite weapon against the billboard. To quote the "New York Tribune":—"We think the abuse could be made to correct itself in a few years if the State would authorize the laying of a graduated tax on street signs, the tax increasing with the square area covered. The government would either make a considerable revenue out of such a tax, or the increased cost of posters would compel a change in present methods. To artistic, modest and sensible advertising there can be no objection. But we owe it to our sense of municipal good order and dignity to blot out the extravagant and tasteless poster spread indiscriminately over fences and walls. We have much to learn from the wise practice of European cities in dealing with the street advertising problem."

According to the Philadelphia "Press," billboards should

be taxed to death. "The township of South New Brunswick, in New Jersey, has given the billboard men a bad turn by imposing a tax on their flaring signs. The owners complain that the tax will drive them out of business.

"This plea is met by the statement that the disappearance of their signboards would bring much joy to many people, as they disfigure the landscape, cut off the view, annoy observers and probably profit nobody but the billboard men, as it is hardly conceivable that any one will care to purchase a commodity thrust upon their attention in an offensive fashion.

"The billboard men occasionally do positive injury with their signs. Princeton University is, for the most part, veiled by the trees which adorn its campus, but some of the newer buildings are outside of the tree line, and the glimpse obtained from passing trains of the Princeton ridge and the University buildings is an exceedingly pleasing one, and is a legitimate advertisement of the institution, which ought not to be destroyed. Yet the billboard men have decreed that, instead of viewing the University, passengers on the train shall read of the merits of certain medicines or whiskies, or the advantages of using some highly extolled soap.

"An industry that thus offends and cuts off the traveler's right of unobstructed view is an entirely proper subject for taxation. If it is taxed to death, so much the better."

And, as the Trenton "Times," in commenting on this phase of the subject, declared, "It may not be possible to tax all the billboards out of existence, as Governor Murphy suggested, but it is possible to greatly reduce their number, and, at the same time, afford a little relief to the other taxpayers of the state. The good work has been started in Kearney, South Brunswick and Trenton; now let the assessors all over the state follow it up. If they fail to do so, the county tax boards should prod them on to the performance of their duty."

Supervisor Murphy, of San Francisco, has introduced two ordinances having for their objects the regulation of billboards and their taxation. One provides that a billboard shall not be erected of more than eight feet in height and ten feet in length without permission of the police authorities, and no board shall exceed ten feet in height. The measure is so drawn that it shall be unlawful to maintain a board of greater dimensions, thus insuring the removal of some of the unsightly sights which now cover the city. It is also proposed that no billboard unattached to a building shall be within twenty feet of the property line. There is attached to this ordinance a penalty of \$200

fine, or ten days' imprisonment, or both, in the discretion of the court.

Taxation is proposed in the second ordinance, the rate being one cent upon every quarter of a square foot, or four cents a square foot. Thus, a board 8 x 10 feet would net the city, under the Murphy ordinance, \$3.20 a year.

THE AMERICAN CIVIC ASSOCIATION'S MODEL BILLBOARD LAWS

The American Civic Association, believing that taxation is a fair and effective method of regulation, has had prepared three bills giving to local authorities power to regulate and to impose license taxes, and also to see that billboard structures are specially assessed. These measures are here printed in full. During the present year (1908) the first has been introduced into a number of state legislatures, and next year, when the great majority of such bodies will meet, it will be introduced in them, and pressed with all the vigor and resources at the Association's command.

I. PROPOSED STATE LAW, GIVING POWER OF REGULATION

An act granting to cities, boroughs, counties and townships power to regulate outdoor advertising, to levy and collect license taxes in connection therewith, and to fix and collect penalties for violation made under its authority.

SECTION 1. The term "outdoor advertising," as used in this Act, shall include all such advertising so displayed as to attract the attention of persons on any public highway or while in the vehicle of any common carrier, or in any station of such carrier, or while in any public building, public park, public grounds or other public place, whether such advertising be by means of printing, writing, painting pictures, or a combination thereof, and whatever may be the means of display, except that it shall not include advertising located upon private property relating exclusively to the business conducted in such property or to the sale or rental thereof.

SEC. 2. In order to preserve the health, safety, morals, and comforts of the inhabitants of this commonwealth, every city, borough, county, and township thereof shall have power in its corporate capacity to regulate outdoor advertising both as to the place where such advertising may be permitted, the

character of the structures upon which it may be placed, and the subject matter that may appear thereon, provided such regulations shall be reasonable in their requirements.

SEC. 3. In order to more effectively exercise the power hereby conferred, it shall be lawful for such cities, boroughs, counties and townships to levy and collect such license tax upon outdoor advertising as may be necessary to defray the expense of inspection, and to require the payment of the same before such advertising may be permitted, and where the advertising is of a permanent nature, to require the payment of such an annual license tax as shall defray the expense of inspection thereof from time to time, as may be required.

SEC. 4. The said cities, boroughs, counties and townships shall have power to collect said license taxes as debts are by law collectible, with appropriate penalties for delay in payment. They shall also have power to fix and collect, as debts are by law collectable, a penalty of not more than one hundred dollars (\$100) for each erection of outdoor advertising in disregard of regulations made under the authority of this Act, and to immediately remove any such outdoor advertising erected in disregard of such regulations or for which the license taxes imposed by the same authority have not been paid.

II. PROPOSED STATE LAW, IMPOSING A STATE LICENSE TAX

This law seeks to locate responsibility, to equitably tax outdoor advertising, and to place a penalty on "sniping." It supplements the first act.

An act to impose a license tax upon individuals, firms, corporations or associations of individuals engaged in the business of displaying outdoor advertising, and imposing penalties for violations of its provisions.

SECTION 1. The term "outdoor advertising," as used in this Act, shall include all such advertising so displayed as to attract the attention of persons on any public highway, or while in the vehicle of any common carrier, or in any station of such carrier, or while in any public building, public park, public grounds, or other public place, whether such advertising be by means of printing, writing, painting pictures, or a combination thereof, and whatever may be the means of display, except that it shall not include advertising located upon private

property and relating exclusively to the business conducted on such property or the sale or rental thereof.

SEC. 2. Every individual, firm, corporation or association of individuals engaged in the business of displaying outdoor advertising by any means whatever, shall be required to pay an annual license tax for the use of the Commonwealth (State) in the sum of one hundred dollars, which sum shall be collectible through the officers, local or state, by whom similar taxes are now by law collectible, and in the manner provided by law for the collection of such taxes.

SEC. 3. All such individuals, firms, corporations or associations of individuals engaged in displaying outdoor advertising shall be required to place upon each item or piece such display in the lower left hand corner thereof the name of such individual, firm, corporation or association of individuals displaying such advertising, together with the number of its license.

SEC. 4. Any individual, firm, corporation or association of individuals which shall engage in the business of displaying outdoor advertising without first having complied with the provisions of Section 2 of this Act, or which shall violate the provisions of Section 3 thereof, shall be subject to a penalty of twenty-five dollars for each and every item or piece of any display of outdoor advertising made by it in violation of either of said sections, which penalty shall be collected as debts are by law collectible at the suit of the Commonwealth (State).

III. PROPOSED STATE LAW, PROVIDING FOR THE EQUITABLE ASSESSMENT OF BILLBOARDS FOR TAXATION

In but few places are billboards assessed for general taxation, at present. If a man erects four walls of any sort and puts a roof over them, the assessors discover the structure as an "improvement," and add to his assessment; but if he omits the roof, and covers any or all of the walls with advertising, he is seldom visited with any additional assessment. The farmer who, for a consideration of some sort, permits his barn or out-building to be painted black and yellow with "Castoria," or the city householder who gives up his side-wall to a staring "Coca-Cola" sign, does not have his assessment increased, even though he derives additional revenue from the advertising. The following Act seeks to have all such properties bear an equitable share of taxation.

An act to provide for the taxation of real estate based upon its value for purposes of outdoor advertising.

SECTION 1. The term "outdoor advertising," as used in this Act, shall include all such advertising so displayed as to attract the attention of persons on any public highway, or while in the vehicle of any common carrier, or in any station of such carrier, or while in any public building, public park, public grounds, or other public place, whether such advertising be by means of printing, writing, painting pictures, or a combination thereof, and whatever may be the means of display except that it shall not include advertising located upon private property and relating exclusively to the business conducted in such property or the sale or rental thereof.

SEC. 2. Hereafter, assessors and such other officers as now are or hereafter may be authorized and required by law to assess property for purposes of state or local taxation in this Commonwealth (State), shall assess as taxable property under the terms "land," "real estate," and "real property," not only the land itself, and such buildings and structures thereon as are now by law assessable, but also all such buildings or structures in or upon which outdoor advertising is displayed and, in computing the value of such structures for purposes of taxation, or of other buildings or structures now taxed upon which outdoor advertising is displayed, shall take into consideration and shall assess the value of such buildings and structures for purposes of outdoor advertising, which valuation shall be not less than three dollars per square foot of the surface actually used for such advertising.

SEC. 3. Taxes so assessed shall be collectible in the manner provided by law in the various localities in which the property is situated.

BILLBOARD MISCELLANY

THE METHODS OF THE MINISTER MILITANT

The methods of the "Minister Militant" of Blandford, Mass. (Reverend S. G. Wood), are most interesting. Armed with an ax, and aided by his son, a college graduate, while the fight of Blandford against the invasion of bill-posters was at its height, he set out each morning in a team, scouring the town for advertising signs, and tearing down all he could find, whether upon the highways or upon private property.

Then, when the advertising agents discovered what was happening to the signs they had so industriously put up, they sought Mr. Wood and expostulated with him; but all to no purpose, as he calmly pointed out that what he had done was within the law.

Many measures were employed to defeat him in his attempt to keep the town beautiful. Some were successful for a time, but in the end it was the minister who came off with flying colors. To outwit him in his crusade, permission was sought from owners of private property to put up signs, and wherever it was obtained the signs went up in large numbers. This was supposed to put an end to the minister's destructive methods, but he, knowing the property owners better than the advertisers, easily prevailed upon them to have the signs removed; and, as he did the work of taking them down himself, they came down, and that quickly.

Then Mr. Wood's foes built high in the trees along the country roads little wooden signs which announced the value of a certain yeast. No sooner did the minister learn of this than, hitching up his horse, he took to the warpath. True, he was fifty-two, and a little too old to be climbing trees; but then he had a son, and this son was an athlete, so that what the father failed to do, the son found but child's play. Now it is said that every time his horse sees an advertising sign he stops and refuses to go on again until it has been torn down.

Mr. Wood tells of his meeting with an agent who had been most persistent in using fences and trees as a medium for telling of the wonderful value of yeast:

"Just as I was going out before breakfast, one morning," he said, "a man with a bag swung over his shoulder entered and placed a package within my front doorway. It did not occur to me that it was my friend, the enemy, but there on the floor lay a yeast cake. This is a perfectly legitimate way of advertising, and I find no objection to it, but unhappy visions of placarded roadsides came to me, and I determined to make it my business of the morning to lay for this man.

"Several trips to store and hotel, a breakfast interrupted in the middle, and a final settling down in a chair on the hotel piazza in waiting attitude, brought at last the desired interview.

"Immediately upon the agent's emerging from the house I accosted him and proceeded to present my cause, which I announced as a request which would doubtless be unconvincing to him, but which I was there to present, namely, that he would henceforth refrain from using our town highways as a vehicle

for his advertising; it was obnoxious to citizens of good taste; we had cleared the roads once by an organized campaign, and we desired that the cleaning be permanent.

"He suggested that I had better write to the company. I assured him that I would certainly do so, but meantime I wanted him to stop. He answered that he would not do it. He did not seem to comprehend, so I added that it would do no good for him to continue; he was wasting his time and the company's time.

"I had already destroyed hundreds of his ads. He did not ask me who I was, and I did not tell him. 'Do you mean to say that you are going right to Westfield this morning, putting up those things in the face of all I have said to you?' I asked. 'Yes,' he said. 'Then I shall follow behind you, and take them down as fast as you put them up.'

"Then we parted, I in coolness, he in heat, with the remark that this was a pretty kind of a place, or something of the sort, and, as a parting fling, posting one of his labels on the store front near-by. I gave him the solace of a blessing on that, as it was the one legitimate place in town where it belonged."

The editor, having had suggested to him that possibly the law had been transgressed some little by the Militant Minister, or possibly stretched a little, asked the active and alert secretary of the Massachusetts Civic League, Edward T. Hartman, about the law, with the following result:

"The 'minister militant' is, of course, on the safe side. No good warrior goes to war without a formal declaration, and without international law safely on his side. When you recall that Mr. Wood has repeatedly told these people what he proposed to do, you can see that he is fighting in the open. It would be a queer state, or a queer court, and a queer set of laws which would prevent him from tearing any thing down which was put up by any one against the wishes of the public and without the permission of the owner of the property.

"I think this law only affirms what must be held by courts as a substantial principle, and that is that if I go along tacking or pasting up offensive-looking stuff on public property, or on private property, without permission in either case, you may go along and tear it down equally without permission. The permission is granted in this instance, however, although, possibly, Mr. Wood has not always adhered rigidly to boundary lines, as you will note that specific permission to tear down is not given except when the stuff is within the limits of the highway. I presume it is somewhat difficult to describe the

limits of the highway where it runs through a forest and there are no fences."

THE NIAGARA TEST

Through the helpful aid of the Commissioners of the New York State Reservation at Niagara, the American Civic Association had distributed to visitors as they came from Goat Island, after seeing the majesty of Niagara Falls, double post-cards, one portion containing a picture of the Falls which might be mailed to friends, while the other was addressed to the "American Civic Association, Philadelphia," and requested replies to these questions:

"Have you noticed the advertising signs on the Canadian side of the Gorge, near the end of the steel arch bridge?"

"Do you find them, on the whole, pleasing or displeasing?"

"Are you more likely to buy the articles advertised by reason of seeing these signs at Niagara Falls?"

Spaces for the name and address of the writer were provided.

In explanation of the crusade against the billboards, the post-cards contain this paragraph:

"The American Civic Association is anxious to learn, so far as possible, how the enjoyment of the visitors to Niagara Falls is affected, if at all, by the large advertising signs exhibited in the vicinity of the Falls. You are, therefore, respectfully requested to answer these questions and to deposit this card in the box provided at the Goat Island shelter, close to the end of the bridge, or, if more convenient, to mail it."

The following is a tabulation of the returns received:

	Number.	Ratio to total number of cards returned	Ratio to total answers to questions.
		Per cent	Per cent
Question 1, answer "Yes" :.....	293	98	99
Question 1, answer "No" :.....	15	1	
Question 1, answer blank :.....	14	1	
Question 2, answer "Pleasing" :....	38	11.8	12.4
Question 2, answer "Displeasing" (or some more emphatic word) ...	269	84	87.6
Question 2, answer blank :.....	15	4.6	4.7
Question 3, answer "No" (or some more emphatic word) :.....	270	84	87.6
Question 3, answer "Yes" :.....	37	11.8	12.4
Question 3, answer blank :.....	15	4.6	4.7

The geographical distribution of those answering the Association's inquiries is given in this table:

California	5	Mississippi	1
Canada	6	Missouri	7
Connecticut.....	4	Montana	1
District of Columbia	4	New Jersey	14
England.....	2	New York	83
Georgia	3	North Carolina	1
Germany	1	Ohio	33
Illinois	24	Pennsylvania	58
Indiana	4	Rhode Island	1
Indian Territory	1	Scotland	2
Iowa.....	4	South Carolina	1
Kansas.....	3	Tennessee	3
Louisiana	2	Texas	4
Maryland	3	Virginia.....	2
Massachusetts	16	Wisconsin	5
Michigan	14	Miscellaneous	10

THE PRESS AND BILLBOARDS

East and West, North and South, newspapers and magazines really interested in better living conditions have declared themselves against obtrusive billboard advertising. A few editorial expressions are given here, as showing the feeling of these creators of public opinion.

Agricultural Advertising, Chicago, Ill.

In truth, however, the billboard men have only themselves to thank for the persistent agitation against their business. They have not been quick to recognize the bounds and demands of decency. They have, in many instances, outraged public sentiment. They have too often assumed an arrogant and offensive manner, and resented perfectly legitimate "interference."

For all of which they are now paying the price of a constantly increasing hostility on the part of a portion of the public.

Whether adverse sentiment grows to the point of prohibition or not, depends upon the bill-posters themselves. The day is past, in America, when any man can say with impunity, "The public be damned." The sign-man can no more defy public sentiment than can the railway president—not so much, because the general public must have railways, but a large share of the general public is still in so benighted a condition that it does not recognize that a signboard is "absolutely indispensable in every well-regulated community."

The sign-man will be "regulated" or exterminated—one or the other.

Plainealer, Cleveland, Ohio.

FIGHTING THE BILLBOARDS.—That the airship was invented because of man's constant desire to escape the billboards is a suggestion offered tentatively by the "New York Tribune." Regardless of whether this thesis can or cannot be proved, it must certainly be

counted one of the advantages of ballooning over automobiling that its devotees are not continually assailed by these advertising monstrosities. . . . The agitation against billboards, however, will not be quieted. Public opinion is becoming more and more aroused, and before this tribunal nothing desirable is impossible.

Courier, Louisville, Ky.

THE BILLBOARD NUISANCE.—There is no question as to unregulated billboard advertising being an infringement upon the rights of property owners, an affliction to a community and an evil influence upon the value of real estate.

Few prospective purchasers would look with equal favor upon two pieces of property, one of which is situated between two residences with well-kept lawns, and the other between two vacant lots devoted to unsightly billboard advertising. Every property owner has the right to demand of the local government the protection of his property from nuisances that affect its price injuriously.

Oklahoman, Oklahoma City, Okla.

BILLBOARD NUISANCE.—Oklahoma City should begin giving its attention to the billboard nuisance that has caused so much trouble in other municipalities. The billboard has been condemned as a lurking place for rowdies, as a dumping place for refuse, and a danger place in storm and conflagration.

Democrat, Little Rock, Ark.

DISFIGURING BILLBOARDS.—The city officials are to be commended for the crusade against the disfiguring billboards, especially those that flaunt their ugliness on Main street.

If Little Rock is to be made a City Beautiful, the billboards must be relegated to the back streets, and, if thereby they lose their value as an advertising medium, that is not the fault of the public.

The billboard is condemned all over the country as an unsightly obstruction of the streets, and the nuisance has been encroaching upon Little Rock for some time until it must have an end somewhere, and the earlier the better.

Telegraph, Colorado Springs, Colo.

The locality around the 1400 block on North Tejon street has just been made the victim of a billboard debauchery of the worst type. We speak of this particular place, because the people have been long-suffering and have endured in that block, a nasty livery stable for some five or six years, despite all efforts to uproot it, and notwithstanding the very evident damage to property.

And now this second affront has come to them, and they are asked to pass it by in silence, and be content to see one of the best residence sections of the city violated in this way.

The city ordinance expressly provides against such a nuisance and damage, but, unfortunately, the remainder of the passage through the courts is not so clear. One judge has held that it must be proved, under the Colorado law, that the board is a nuisance and that damage is done.

Everybody knows that a billboard is a nuisance and an eyesore, and that it damages all property in the neighborhood. We fail to see why there should be such hesitancy upon the part of the courts in

plainly saying so. No man or corporation should be permitted to ravage around and injure other people's property by stables or billboards, or other nuisance, merely because he owns adjoining property or has a lease upon it.

Democrat, St. Louis, Mo.

BILLBOARD AGGRESSION.—In all Paris there is not a billboard on the American plan. That city has not beautified itself for the enjoyment of its own people and the world, to go into hiding behind huge fences covered with all sorts of fantastic, vulgar and crime-breeding pictures. It is not uncommon to see the representation of a murder, with life-size figures, on an American billboard, with all the attendant features of a deed of blood. Suggestions of crime and licentiousness are plastered broadcast throughout a city.

News, Pasadena, Cal.

UNSIGHTLY BILLBOARDS UPHELD.—Leaving out of the question all reference to the esthetic or moral sense of the community, the "News" cannot avoid believing that what substantially detracts from the enjoyment of surrounding property by the owners for the purposes for which it is used affects a substantial right such as would make it a proper subject for local regulation by ordinance. Such ordinances have been sustained in very many states.

Journal, Elizabeth, N. J.

ANTI-BILLBOARD CRUSADE.—In connection with the movement, the "New York Evening Post" has obtained an interesting interview with one of the firm of architects responsible for the New York Public Library. He makes the interesting point that the present absolute license given the displayers of such advertising is, for one thing, discouraging to architects. What encouragement is there, he asks, to an architect to try for dignity and strength in the city's buildings when his work is to be overshadowed as soon as it is finished?

News, Indianapolis, Ind.

OUTDOOR ADVERTISING.—There are few countries where natural scenery is defaced by offensive advertising schemes as in America. . . . All these regulations are in the interest of the public at large, and the next result is to reduce the offensiveness of outdoor advertising to a minimum. If it cannot be done away with altogether, it should at least be regulated and made profitable to the public that suffers.

Enquirer, Oakland, Cal.

BILLBOARDS MUST GO.—When the advertiser appreciates that the public is prejudiced against this form of publicity, he will soon find that it is a poor kind of advertising in which to invest his money. In other words, public sentiment, properly organized, is a most effective method of eliminating this sort of nuisance.

Union, Springfield, Mass.

THE NUISANCE OF THE BILLBOARD.—Whether these huge signs adorn the fronts of business structures, rise from the roofs of buildings, extend along the sides of streets, or are hauled about the city or massed at entrances to public parks, they are alike objectionable.

Beauty, taste, decency, personal liberty, safety,—all these things and more are violated by this mistaken means of publicity. Not only does this practice disregard the considerations which make for a city beautiful, but, so long as it is tolerated, it makes other efforts toward the same end futile. Though a façade be ever so artistically wrought, or a square laid out in the most attractive manner, the effect is ruined by the introduction of advertising “screechers.”

The protest against the billboard nuisance is, in no sense, a crusade against the advertising business. Happily, an increasingly large number of advertisers have abandoned this means of advertising because they deem it unprofitable, while others have refrained from the same custom because their sense of public spirit and decency condemns it. Most of us like to know about the latest breakfast food, or the newest brand of soup, but it is conceivable that a man's appetite for either may fail him if he is forced to read about it twice, thrice, or, perhaps, a hundred times a day, when he prefers to direct his mind upon some other subject.

Herald, Spartanburg, S. C.

BILLBOARDS.—There is a field for the billboard as a means of publicity, but it should be kept within proper bounds, and certainly the pictures which are placed upon them should be such as not to exert an unwholesome influence upon the schoolboys and school-girls. These flashy vehicles of publicity are placed where he who runs may read, and may see the crude and often hideous representations of criminal acts, such as train robberies, murders, and other incidents which are put on in the theater. It is bad enough for such plays to be enacted, but boys and girls may be kept away from the theater, whereas they cannot be prevented from seeing the billboards.

Post Express, Rochester, N. Y.

THE OFFENSIVE BILLBOARD.—Now that Rochesterians are becoming municipally self-conscious, hope begins to dawn that the sense of vision and notions of morality will no longer be offended by the flamboyant advertisement and the hysterical theater poster. Why should the natural sky be made hideous by nerve-racking luminous signs? Why should the fair face of the landscape be defaced by the monstrous conceptions of the industrial artist? Only once in a decade is a beautiful advertisement to be seen on the billboards; but every day the eyes are affronted by the chromatic spasms of publicity.

News, Newburyport, Mass.

THE BILLBOARD EYESORE.—We have many times adverted to the unsightly billboard and stigmatized it as a public nuisance; but reform in the direction of its elimination comes slowly, although we think it will come in time. It is worthy of note, however, in this connection, that a brand-new board has lately been erected in this city. But the town of South Brunswick, N. J., has done something practical in the way of abating the nuisance along its highways. The town could not remove the boards which were erected on private property and so, as they were a source of private revenue, it laid a tax on them as on other personal property. The advertisers appealed to the state equalization board to secure a remission of the tax; but the board upheld the town assessors and now the question will go to the courts. During the process of taxation, some ad-

vertisers complained that they were taxed more than others and the assessors made a short cut in that matter by at once raising the lower taxes to an equality with the higher. It is thought and hoped that the courts will uphold the assessors. If they do, the town will be in a way to be relieved of ugly caricatures along its highways which are highly obnoxious. The contention of the assessors that the billboard, as a source of revenue—a business—is taxable, would seem to be a sound one.

Star, Montreal, Canada.

AGAINST BILLBOARDS.—We should not allow any person to claim property in the view. If a citizen's property is so placed that he can disfigure the view and destroy the legitimate pleasure that all the rest of us might take in it, the law ought to limit his right to use his property to at least the extent of saving us from an affliction where we sought a delight. We will not let a man use his property to create a nuisance to the sense of smell; and why should we permit him to create a nuisance to the sense of sight? The time is coming when the community as a whole will have to assert its rights more vigorously over the individual who cares nothing for taste or decency.

OUTDOOR ADVERTISING ABROAD

European cities have handled the billboard problem with consummate ability and skill. President McFarland of the American Civic Association made direct inquiry of a number of American consuls concerning the control and management of billboards, and the answers, received through the State Department, have been incorporated in the consular reports and given a wide publicity throughout the United States. Some South American cities have been equally progressive, and the result of the experiences there has been similarly ascertained and sent broadcast. We present here some of the more striking features of these reports as showing just how carefully and successfully the work has been done.

GERMANY

BILLBOARDS FORBIDDEN IN BERLIN

Outdoor advertising displays are closely restricted in this city. Billboards, as they are known in the United States, are absolutely prohibited in Berlin, but in place of such oftentimes unsightly objects, public advertising is confined to a system of neat pillars or columns on the edge of the sidewalk at the principal street corners or intersection. These round, hollow columns (called "Litfass Saulen" after the originator) are built substantially of iron and wood, about 12 feet high and 3 feet in diameter, the exterior having an advertising surface

of from 11 to 12 square meters. The pillars are used principally for the advertisements of theaters and other places of amusement, for the announcements of newspapers and periodicals, and official notices. They are a conspicuous feature of Berlin street life, and are consulted regularly by theater-goers, etc. Considerable artistic cleverness is displayed in the arrangement of the differently colored posters, which are mostly in the form of reading matter, and not pictures.

BERLIN DERIVES LARGE INCOME

In April, 1901, the city of Berlin advertised for bids for the privilege of erecting and using these advertising columns within the limits of the city for the term of ten years, and the successful bidders are paying an annual rental to the city of 400,000 marks (\$95,200), payable quarterly. According to the terms of the lease, the city covenanted not to grant a similar license to any one else. Newspaper kiosks, however, are permitted to have advertisements on their walls, consisting of wood, tin, iron, glass, etc. At that date there were 700 columns already erected, and the number was at once to be materially increased. The contractors were to erect them at their own cost, but both as to the design and location the approval of the police authorities was to be obtained, and they at once became the property of the city, all repairs and proper maintenance being performed by the contractors.

RIGHTS RESERVED BY THE MUNICIPALITY

The city has the right to use the interior of the columns for various municipal purposes, such as storing utensils for street cleaning and sand for use in the streets, for switch apparatus, for public electric lights and meters for electric street railways, etc. These columns, therefore, are provided with doors and locks, and the contractors have to keep the interiors properly ventilated and free of moisture. Each column must also have distinctly marked on the upper portion of it the number of the city district and of the police station, the nearest post and telegraph office, the nearest fire-alarm station, the nearest sanitary station, the nearest accident station, and the nearest relief station. Delay in any payment or violation or neglect of any condition on the part of the contractors renders them liable to a fine up to 1,000 marks (\$238), and may even cancel the lease. A bond for 50,000 marks (\$11,900)

was given for the fulfilment of the terms of the contract. The contractors have the exclusive right to use these billboards for advertising purposes, subject, however, to certain conditions.

CHARGES AND METHODS OF POSTING

The consul-general explains the rates for advertising, which are regulated by the Berlin authorities. The charges are according to space occupied, the maximum varying from 9 cents to 59 cents per day, the latter being for a space of 19 x 29 inches. For placards larger than that the charges are in proportion.

All placards must be approved by the police authorities before being posted. The contractors must keep a record of applicants for advertising space, and, unless in cases of great urgency, the applicants must be served in their correct order.

The city authorities have the right to demand at any time the free posting of such official notices as may be necessary, and for this purpose a special shade of red paper is used, and no private advertisements may, therefore, use that shade.

The posting of bills on the pillars must always be done at such time as to cause the least possible interference with the street traffic, and is therefore usually done at night.

No promiscuous filling up of scaffolding on new buildings with advertisements is permitted here. The owner of a building may paint any exposed portion of it with signs or hang out signs, but permission must first be obtained from the police. At the present time, as in America, multicolored, changing, electrically illuminated signs on the tops and on the entrances of buildings and stores are much in vogue, so that the business part of the city at night-time is here and there dazzlingly brilliant.

Show-cases placed outside a store have to pay a small tax.

"Sandwich men" are occasionally seen in the streets of Berlin carrying signs, but this is regarded in Germany as a degrading form of labor and, consequently, this kind of advertising is not much practiced.

—From report of Consul-General A. W. THACKARA.

MUNICIPAL RESTRICTIONS AND GRANTS IN HAMBURG

One of the oldest enterprises in Hamburg exclusively devoted to outdoor advertising, in January, 1871, entered into a thirty years' contract with the Hamburg state government

for the sole right of erecting pillars for advertising purposes. In 1901, upon the expiration of the original contract, which called for fifty-two such pillars, afterward increased to one hundred, it was renewed for another thirty years, with the provision that after 1911 the right be reserved to the Hamburg government of demanding, upon one year's notice, the removal of the existing pillars.

CONTRACT WITH THE CITY

The chief features of the contract are:

The company is obliged, at its own expense, to erect and maintain in good order and condition the number of advertising pillars agreed upon on such places on public streets or squares as shall be assigned to the company, free of rent, by the "Baudeputation" [building department, one of the Hamburg government departments]. The pillars are required to be built of glazed tiles or bricks, uniform and neat in appearance, and to be constructed in such a manner that they may also be used as public drinking fountains. Whenever the department of finance, in the interest of the public, demands the removal of any of these pillars, the company is obliged to effect the same without delay; the costs connected therewith, however, are borne by the state of Hamburg, unless the removal is done at the company's own desire, and not in compliance with government orders. All the work connected with the installation and keeping in repair of the said drinking fountains, for which water is supplied by the city free of cost, is performed at the expense of the government.

The pillars are further arranged in such a manner that the interior may be used by the city as a receptacle for gravel, sand, or other strewing material for streets, and on the part of the company for the keeping of tools, utensils, waste paper, etc.

The company is obliged to comply strictly with any existing laws or police regulations pertaining to posters and other advertising matter, and is in its entire management and service subject to a control on the part of the police department, having unconditionally to follow any orders the latter may deem proper to issue.

Included in the rates is the remuneration for the attaching of advertising matter. The company is further required to affix, free of charge, on all pillars owned by it in the city any public (federal, state, or city) announcements and notices submitted to it for publication by any government depart-

ment or authority, and for such announcements must be selected a conspicuous place, so that the same can be easily read by the public.

As a remuneration for the license and use of public places for advertising pillars the "Anschlagsaulen-Gesellschaft" is required to turn over to the treasury of Hamburg 20 per cent of its annual gross profits. According to a recent amendment to the original contract, this amount will later be increased to 25 per cent. Business losses, however, are borne by the company alone.

CLOCK ADVERTISING—GENERAL CITY REGULATIONS

Besides the contract with the "Anschlagsaulen-Gesellschaft," there exists another one between the government of Hamburg and the "Annoncenuhr-Aktiengesellschaft," by which this company was granted a license for the erection and operation of clocks on public squares for advertising purposes. However, there are only nine such clocks in operation in the city, for which privilege the company pays to the Hamburg treasury an annual remuneration of 10 marks (\$2.38) per clock. Daily advertisements and such as relate to theater or concert performances and other amusements are not permitted on these clocks, and this scheme of advertising is becoming obsolete. Besides, the "Anschlagsaulen Gesellschaft" is now holding the monopoly for the erection of advertising structures, so that the number of advertising clocks operated by the "Annoncenuhr-Aktiengesellschaft" can not be increased.

With regard to outdoor advertising other than that on such structures as the advertising pillars and clocks described in the foregoing, such advertising is regulated in Hamburg to a limited extent only, particularly by the "Strassenordnung" (street regulations) of July 7, 1902, paragraph 59 of which reads in translation, as follows:

The hanging out, exhibiting, or affixing in any other manner of articles for sale and other purposes on buildings, doors, windows, fences, etc., so that the same extend into the open air space, are subject to a permission on the part of the police department.

PAINTINGS AND SIGNS ON BUILDINGS

Advertising in the shape of paintings on walls or other parts of buildings is not subject to a permission on the part of the police department, and can not, therefore, be objected to.

However, the affixing of bills, posters, placards, private notices, etc., on public buildings and other property is prohibited (this prohibition being based chiefly on the contract between the city and the "Anschlagsaulen-Gesellschaft"), whereas for the affixing of any advertising matter, private notices, etc., on private buildings, fences and plots the permission of the owner is required. The owners of private property have the right to permit the use thereof for advertising purposes, of which privilege ample use is made, numerous walls of houses, roofs, fences, etc., being let for advertising purposes of all kinds.

HARMONY IN ARCHITECTURE—NO ADVERTISING TAXES

For a number of streets in the city proper it was required in former years (by special act) that, in connection with the sale of public property, buildings to be erected thereon be built in the same or a similar architectural style as that of adjacent houses. By means of this requirement, the Hamburg government is in a position, if considered proper or necessary, to prevent the attaching of any signboards, etc., which are likely to disfigure the uniformity of the buildings in those streets. Other means, however, than these street regulations the Hamburg government has none at its command to restrict outdoor advertising. The restriction of conspicuous, obtrusive advertisements in the vicinity of public squares, parks, monuments, buildings, etc., has repeatedly been considered by the legislature and the competent local authorities, but so far no definite results have been arrived at.

—From report of Consul-General O. W. HELLMRICH.

BILLPOSTING IN FRANCE

GOVERNMENT REGULATION OF PUBLIC ADVERTISING DISPLAYS

The first enactment relating to the subject is a law, dated July 28, 1791, is still in force, and prescribes that only a government poster or announcement may be printed on white paper. All others must be on colored papers—red, blue, yellow, etc. Every poster or other announcement painted, printed, or otherwise delineated upon a wall, building, or upon canvas or other sustaining device, is subject to a yearly tax as follows: In communes of less than 2,500 inhabitants, 12 cents per square meter; in communes from 2,500 to 40,000 inhabitants, 13 cents; in cities over 40,000, 20 cents, and in

Paris, 30 cents per square meter. This is for business or other announcements of more or less permanent character.

SECURING OFFICIAL PERMISSION

Temporary "affiches" or posters are subject to a stamp tax according to size from 2 to 6 cents per sheet. This is attached either in the form of stamped paper on which the revenue stamp is applied to the sheet before being printed in such way that the stamp is canceled by the text being printed over it, or it may be attached adhesively afterward and canceled by a rubber stamp provided for that purpose.

But, before being publicly displayed, each poster is required to be presented in duplicate at the office designated for that purpose, dated and signed either by the person in whose interest it is prepared or by the billposter who is charged with posting the same. Such antecedent declaration must state fully: (1) The text of the poster; (2) the name, surname, profession, and domicile of the person in whose interest it is to be displayed; (3) the dimensions of the poster in square meters and fractions thereof; (4) name, surname, and domicile of the billposter who is to post it in public; (5) the number of copies to be posted; (6) precise information as to the streets or squares, houses, or other constructions on which the poster is to be displayed, and (7) the length of time during which it is to be kept in view. One copy is filed at the office of registration, the other, signed and stamped by the official in charge, is returned to the applicant.

CONTROL OF ADVERTISING EXHIBITS

It will be obvious that a system so rigid and elaborate as this gives the authorities of every village and commune in France absolute control of all posters and announcements displayed in public places, and practically suppresses the abuses which prevail in that respect in certain other countries.

No one is permitted in France to deface streets and public places with crude, ostentatious announcements of his business or other subject. Billboards are infrequent in Paris, and are generally built permanently into a wall, where they are taxed according to their superficial area.

When a building is in construction, and board screens are erected to shield the public from dust and other annoyance, such temporary screens will soon be covered with posters of amusements and other business, but each poster so displayed

has been previously submitted to the authorities, a license obtained, and each sheet bears the canceled revenue stamp, according to its size.

FOUR KINDS OF ADVERTISING STRUCTURES

There are in Paris four classes of kiosks, or street structures, which are devoted to advertising or billposting, as follows:

1. Round towers, known as the *Colonnes Moris*, made of wood and used mainly for posters of theaters and other amusements. This is the oldest form of kiosk in Paris, and comparatively few of them are now in use except on the leading boulevards and avenues.

2. The "*Poste de vigie*," or policeman's kiosk. This is a hexagonal kiosk used as a shelter by the policeman whose post is adjacent to the more important cab stands. Its panels of wood or glass are used for the more permanent class of business advertising, which is printed on the glass or posters covered by glass frames.

3. The news-stand kiosk serves as a shelter and depot for a dealer in newspapers and magazines, whose stock is usually displayed on shelves or tables under a tent or awning set up outside the kiosk. Paris is the paradise of newspaper venders, and kiosks of this class are common throughout the city. They are substantially built, and their panels serve for the permanent display of a large variety of advertisements.

4. Finally, there are the public comfort stations for men, which are built of iron with interior slabs of slate. They display poster advertisements of patent medicines and various other subjects, and, although not ornamental, are considered useful, through primitive concessions to public necessity.

Electrical signs are permitted and used to some small extent in Paris, but not so generally as in Berlin, London, and some other European cities. For each sign of this class of public advertisement a special permit must be obtained from the prefecture, and the tax thereon is regulated by the size and character of the sign to be displayed.

OUTDOOR ADVERTISING IN SOUTH AMERICA IN BUENOS AIRES

Outdoor advertising in this city is regulated by the municipality as to morality, etc., and advertisements can not be placed anywhere within the city limits without the consent

and authorization of the city authorities. Billboard advertising is handled exclusively by the municipality, which puts up the boards and rents the spaces. A tax is imposed upon every kind and variety of advertising, whether in street cars, railway stations, theaters, bars, restaurants, walls of houses, carts, or any building which is open to the public. The tax on wall advertisements, theater curtains, etc., is \$5 Argentine paper (\$2.13 American currency) per meter (meter 39.37 inches) per year. Taxes on other kinds of advertisements vary from \$5 to \$15 per meter, according to class, size, etc., as set forth by the Ordenanza General de Impuestos, which can be obtained from the municipality.

The revenue derived by Buenos Aires from advertisements amounts to about \$250,000 Argentine paper (\$106,250 American currency) per year. Up to the present time there is no provision for city announcements in connection with any permitted advertising structures. Electrical advertising, embracing large electrical signs, etc., is as yet in its infancy in this city, and no rules for regulating same have been adopted.

IN BRAZIL

Every sign in Rio de Janeiro is taxed. A café having a special "sorvete," or ice, to serve, makes a placard and hangs it to a doorpost, or to one of the palm trees in tubs which commonly decorate such establishments. The notice thus posted must have a revenue stamp attached. Permanent signs are taxed on a permanent basis; temporary signs on a stamp basis. A sign "house for rent" bears a revenue stamp. Under such circumstances the tax on signboards or billboards is the expected thing, but naturally there is much less general use of such forms of advertising. As in the cities of the United States, a vacant corner on a frequented street is very likely to have some sort of a billboard arrangement, and temporary inclosures about buildings in course of construction are generally covered with more or less prominent signs, but these signs, being taxed, are regulated both in size and in other respects. Since it costs considerable in the way of taxes, as well as in the preparation of boards to erect such signs, there are few of them placed for short periods, and therefore little of bill or poster advertising.

The outdoor signs, as a rule, are painted signs, and, in general, it may be said that they represent the best form of

poster or billboard advertising. Theoretically, any one can erect outdoor signs, subject to the approval of the prefect or mayor of the municipality and paying the tax, but practically the erection of such signs is almost altogether in the control of a company which has taken possession of the most available sites for such work and manages its business much as a similar business is managed in most cities of the United States.

LICENSING KIOSKS—GENERAL CITY REVENUE

In a large number of suitable locations in parks, pleasure resorts, vacant street corners and the like, kiosks have been erected for the sale of light drinks and similar goods, and these structures are taken advantage of for outdoor advertising. As a general thing, the kiosk privilege carries with it the advertising privilege. There are also on the streets and avenues small, movable kiosks, often of so light a construction that the vender carries it about with him, goods and all. These also are licensed by the municipality, and generally carry advertising matter. From these several lines, the city of Rio de Janeiro, or rather the Federal District, which corresponds to the District of Columbia in the United States, but which is practically the municipality of Rio de Janeiro, derives an income of something over \$40,000 a year—from the advertisement and doorplate tax \$31,338, and from kiosks \$9,660.

The effect of taxation in this particular line is unquestionably beneficial from the standpoint of the general appearance of the city, not to mention revenue possibilities. There have been extensive and costly modern improvements made in Rio de Janeiro in the past four years, and the beauty of the city is the subject of never-ending favorable comment from visitors. Much of this is due to the actual natural beauty of the city, its mountainous surroundings, its beautiful bay, and its position with respect to the sea. The nature of the improved avenues, parks, and driveways also contributes to this effect. but the element of freedom from unsightly structures, unsightly signs, and ugly commercialism is so strong an element in the present artistic appearance and attractiveness of the city that it is only necessary to suggest it to a stranger to have it fully appreciated.

—From report of Consul-General GEORGE E. ANDERSON.

HOW TO COMBAT BILLBOARD ABUSES

To meet the demand for concrete suggestions as to beginning the work against the obtrusive ugliness of billboards, the following paragraphs are submitted:

1. Read this pamphlet carefully and completely before writing the American Civic Association for information.

2. Obtain and study local and state laws and regulations affecting outdoor advertising. Usually, a public-spirited lawyer, or the public attorney, may be applied to.

3. Note whether the existing laws or regulations are being observed. Bill-posters are prone to disregard laws if not continually watched. Urge the proper authorities to see that all existing regulations are enforced.

4. Secure publication, in local papers, of billboard information, such as that in this pamphlet, and in the Clipping Sheets issued by the American Civic Association. This will call attention to the evil, too often accepted as necessary, or merely overlooked.

5. If there are obtrusive billboards near churches, schools, parks, or public buildings, direct public attention, through the local press, to the harm and incongruity of such displays.

6. If it is found that the billboards hide filth, call the attention of the sanitary authorities to this, and have action taken. To have photographs made of conditions back of billboards, and to secure their publication in local papers, is a most effective way of arousing the public. Photographs of billboards near fine buildings or schools, or as they appear to the incoming traveler, are effective in arousing the people. If the billboards are carelessly kept, and if loose paper from them is allowed to fly about the streets, insist on improvement for sanitary reasons.

7. If there is a pest of the smaller "sniping" signs, nailed or pasted on poles, trees, fences and outbuildings, ascertain whether permission for the placing of such signs has been obtained. If not, urge property owners to summarily remove the signs, as is their undoubted legal right. It is usually safe for any interested person, after inquiry as to permission, to remove the signs. Burn or bury them; don't create another nuisance by throwing them aside somewhere.

8. Endeavor to have local laws and regulations established restraining the excesses of the billboards and taxing them. Such regulations should be based upon the "police power" of the community, and should be reasonable, or they will not stand the test of the courts. As yet, ordinances to prohibit billboards are not enforceable in most American communities. If you have enough courage, and, especially, if you can secure evidence that the signs have actually damaged a residence neighborhood, or decreased values, get your testimony in good order and have a capable lawyer ask the court to abate the signs as public nuisances under the common law. You may fail; but, if your case is well prepared, there is always a chance of success, and of thus doing great good, not only to your community, but, also, to all others.

9. Arouse local sentiment and civic pride in your community. Insist that your townsmen are entitled to as much beauty as other towns have, and show how the signs create ugliness. Urge local merchants to abandon the billboards in order to help increase home beauty. Get many friends to ask this of your business men as a favor and as an evidence of their public spirit. See to it that they do not suffer in business by such action.

10. Write the general advertisers who offend, respectfully protesting against the signs. These people all want favorable publicity; it cost the meat-packers millions of dollars to remove the effects of unfavorable publicity. That you may note that certain notable offenders do not desire to have the illwill of communities, read these extracts from letters received by the president of the American Civic Association:

"We wish to say to you that, in all candor and seriousness, we are heartily in accord with the purposes of the American Civic Association, but do not quite agree with the methods that they have adopted to obtain a 'better and more beautiful' America, and beg to assure you that at any time we shall be pleased to hear from you regarding any sign that may appear to you to be objectionable.

"With assurance of my deepest respect, I am

Very truly yours,

THE COCA-COLA COMPANY,

By C. Dobb, Sales Manager."

"As to the question of civic beauty, we must agree that our scenery, either rural or urban, is not improved by the presence of the many-colored billboards, but so long as they are permitted and

are available at a reasonable price, the progressive advertiser of today is going to use them.

"In working out our outdoor advertising, we aim to get designs that will be pleasing to the public eye as well as instructive on our line of goods. Yours truly,

THE QUAKER OATS COMPANY,
Charles W. Hess, Advertising Manager."

11. Keep at it; don't be discouraged; keep talking, and trying, and fighting, and the signs will eventually fall. Be good-humored about it; don't mind the hard names the bill-posters will call you, nor their gross materialism or misrepresentation. By their own excesses and actions they are helping to crystallize public sentiment against their ugly productions.

12. For further information, or upon definite points not covered in this pamphlet, write to the secretary or the president of the American Civic Association, or to the vice-president of the Department of Nuisances. To obtain additional members of the American Civic Association among earnest people is an especially good way to spread the gospel of beauty in all ways. The billboard campaign is progressing, and its progress is made more rapid as more communities begin to care how things look. Parks and playgrounds, school gardens and recreation centers are directly influential in causing people to dislike billboards.

SUPPLEMENT TO BULLETIN SERIES II, NO. 2, ON

The Billboard Nuisance

THE SEABURY DECISION ON BILLBOARDS ON THE PUBLIC HIGHWAY

So important is the decision handed down December 9, 1908, in the Supreme Court of the City of New York in a billboard case that the full text of it is herewith presented.

There should be especial notice taken of the clear statement as to complete public ownership of the entire surface of the highway. If this decision is confirmed in other states, as it would probably be upon occasion, all signs on the street surface, outside the private property line (the "house" line) would have to come down. Moreover, **any** use of the streets for private interest would seem to be inhibited. Those who have at interest the proper public use of the highways are urged to act upon this precedent whenever possible, and to advise the office of the American Civic Association of any result.

SUPREME COURT—SPECIAL TERM, PART I (Continued).

By MR. JUSTICE SEABURY

C. J. Sullivan Adv. Co. v. City of N. Y.—This is an application for an injunction *pendente lite*. The plaintiff is a domestic corporation engaged in carrying on the business of advertising in the City of New York. The City of New York, the President of the Borough of Manhattan the Commissioner of Public Works and the Superintendent of Incumbrances in the Borough of Manhattan are named in the complaint as defendants. Upon this application the plaintiff seeks to restrain the defendants from in any way tearing down or interfering with certain billboards or signs and the advertisements thereon displayed on the shed erected over the sidewalks at

the corner of Fourth avenue and Nineteenth street, in the Borough of Manhattan. The building formerly known as the Parker Building was situated at this place. The building was destroyed by fire, but the brick walls, ten stories in height, still remain standing. These walls have a frontage on Fourth avenue of about 100 feet and a frontage of about the same distance on Nineteenth street. A temporary shed has been constructed to protect pedestrians passing along the sidewalk from falling brick or debris. This shed covers the sidewalk, and is about twelve feet above the sidewalk, and is supported by upright wooden posts placed at the curb of the sidewalk. This shed has been constructed under a permit issued by the Bureau of Highways of the City of New York. The permit authorized the building of the structure for the purpose of a shed or roof, and for no other purpose. On the street side of the shed and on a line above and even with the curb large billboards or signs have been erected. These billboards or signs consist of a wooden frame covered with tin, and are 100 feet in length and from 10 to 18 feet in width. One of these billboards fronts on Fourth avenue and another of like character fronts on Nineteenth street. Another billboard has been erected at or near the crosswalk on Nineteenth street, the lower part of which sign comes down to a point within two feet of the curb. These billboards or signs are no part of the shed or roof, but are separate structures attached to the shed, and serve no other purpose than that of a surface upon which advertisements are displayed. Upon the billboards are displayed placards and illustrations in colors advertising theatrical performances and articles that are for sale. Photographs of the billboards or signs are attached to the papers submitted upon this motion. The permit granted to the plaintiff by the municipal authorities merely authorized the erection of a shed or roof, and did not either expressly or by implication authorize the erection of the billboards or signs. Section 144 of the Code of Ordinances of the City of New York provides, among other things, that "all fences, signs, billboards and sky signs **shall be erected entirely within the building line**, and be properly secured, supported and braced, and shall be so constructed as not to be or become dangerous." The plaintiff contends that as the shed or roof is lawful "the mere pasting of signs upon a lawful structure does not render any part of the structure unlawful." This argument begs the question in dispute. The plaintiff had no original right to erect even the shed or roof, and its right to do so was derived from the special

permission which the municipal authorities granted to it to do this particular thing. Municipal authority to build a shed or roof for the protection of pedestrians passing along the sidewalk gave the plaintiff no right to use public property for the purpose of its advertising business. It was granted a limited and special authority to do a particular thing for the accomplishment of a definite purpose. Such limited and special authority does not sanction the use of the street for other and different purposes. The plaintiff, therefore, was entirely without authority to erect the bill boards or signs. **Such signs being outside of the building line it is doubtful if the municipal authorities could lawfully have authorized their erection. The streets or highways are public property. The streets, including the sidewalks, belong, "from side to side and end to end," to the public. Abutting owners have no right to appropriate this public property to private uses. The erection of billboards or signs upon or over public property is an appropriation of public property to private uses, and is no more sanctioned by the law than is the public appropriation of private property. That the municipal authorities cannot lawfully permit the use of "park" property for advertising purposes (Tompkins v. Pallas, 47 Misc., 309) nor grant a right to exhibit advertisements upon a fence inclosing a public building in the City of New York has already been determined (McNamara v. Willcox, 73 App. Div., 451). In the present case the municipal authorities have very properly refused to grant the plaintiff permission to display its advertisements upon public property. The plaintiff bases its pretended rights upon a contract made with the abutting owner. A contract with an abutting landowner could confer no such rights upon the plaintiff, as it claims over public property. The act of the plaintiff in erecting and maintaining billboards or signs upon and over public property is without any color of right or legal authority. With quite as much authority might it claim the right to display its advertisements from the walls of the City Hall or any other portion of the public property.** There are a class of cases which are involved in difficulty where the public authority, claiming to act under its police power, attempts to restrict or regulate the use of private property. The case at bar in no way resembles such cases. This is not a case where private right is invaded by the police power. This is a case where public right has been invaded by a private trespass continuous in its nature. It has no resemblance to

those cases where the sovereign authority seeks to limit or restrain the exercise of individual or private right. It is a case where the **public property has been wrongfully invaded by private or individual interests in such a way as to impair the common rights of all in it.** The ordinance referred to above is relevant only in connection with the question as to whether the municipality has sanctioned this intrusion upon the public property of which it is the trustee. From the terms of the ordinance, it is apparent that the municipality derives no authority from it to sanction such an intrusion upon public property outside of the building line. It is evident, therefore, that the present case is fundamentally different in principle from the "sky sign" cases to which counsel for the plaintiff refers (*City of N. Y. v. Wineburgh Adv. Co.*, 122 App. Div., 748; *City of Rochester v. West*, 29 App. Div., 125; *Gunning System v. City of Buffalo*, 75 App. Div., 31). The latter class of cases deals with signs erected or displayed upon property legally in the possession of private owners. In the present case **an abutting owner or one in privity with him has erected a sign upon public property which is legally in the possession of the City of New York as trustee for all the people of the State. The streets are now the people's highways, as at common law they were regarded as belonging to the king.** Chief Justice Denio, in *Davis v. Mayor of N. Y.* (14 N. Y., 506, 515), declared that "it is essential to the legal idea of such a road that it shall be common to all. The sidewalk is a part of the highway. The highway being common to all, by what right or color of title can this plaintiff or any abutting owner assume to appropriate a part of it to their exclusive use? The abutting owner possesses no such right himself and can confer none by deed or contract. The municipal authorities in sanctioning the erection of a shed for the protection of pedestrians gave no such right as that which this plaintiff has usurped. An abutting landowner cannot rent for private profit the public property for such uses as he thinks fit." **The presence of the billboards upon the public highway is a mere nuisance which the municipal authorities will do well to abate.** The motion to continue the injunction is denied, and the injunction is dissolved, with costs.

NOTE.—It is a matter of interest to report that the Sullivan Co. removed the signs in deference to this decision, but then erected them upon the abutting building, being repaired, being private property. It will be noted that billboard men care nothing for the *spirit* of a law!

